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Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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LAWRENCE J. BRADY
STAFF DIRECTOR

August 3, 2012

Mr. Jack Lew
Chief of Staff
The White House
Washington, DC 20500

Dear Mr. Lew:

The Committee on Oversight and Government Reform is conducting oversight of the use of non-official e-mail accounts to conduct government business. Documents obtained by the Committee, in the course of its oversight of the U.S. Department of Energy's (DOE) loan guarantee program, show that DOE political appointees routinely used their private e-mail accounts to conduct official business.¹ The use of non-official e-mail accounts for official government business is unfortunately not isolated to the DOE. Documents produced to the Committee in the course of investigations of the Department of Homeland Security, the Nuclear Regulatory Commission, and other federal agencies show that this is a government-wide problem.

According to Stephanie Cutter, Deputy Campaign Manager for President Obama's reelection campaign, White House staff frequently use personal e-mail accounts for official business. On August 1, 2012, she stated:

[E]verybody working in the White House . . . we all have personal email addresses and for our longstanding relationships, they often use those personal email addresses. But at the White House we were all instructed for official business to just forward those emails into the White House system. And so that's what we've all done.²

This statement—that White House staff “often” use private e-mail accounts for official government business—raises the concern that records as defined by the Presidential Records Act (PRA) and the Federal Records Act (FRA) are only being captured by official government e-mail

¹ See, e.g., e-mail from John Woolard, CEO, BrightSource Energy, to Jonathan Silver, Executive Director, Loan Program Office, U.S. Department of Energy, March 7, 2011.

² Jennifer Epstein, “Cutter: Aides forward emails to W.H. system,” *Politico*, August 1, 2012. Available at: <http://www.politico.com/politico44/2012/08/cutter-aides-forward-emails-to-wh-system-130815.html>.

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archiving systems to the extent that they are being forwarded to official accounts. Unless all e-mails were forwarded to federal government (.gov) addresses or preserved as paper copies, there is a risk that records subject to the PRA or FRA were not retained as required by law.

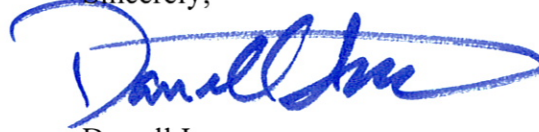
In addition to running afoul of the PRA and FRA, the use of a non-official email accounts to conduct government business creates difficulties in fulfilling Freedom of Information Act (FOIA) or litigation requests. Furthermore, conducting official business using a non-official account may implicate criminal or civil penalties for the unlawful removal or destruction of federal records (18 U.S.C. 2071), and the improper handling of records containing other information exempt under FOIA (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), and other information to which access is restricted by law.

The American people have a right to know that White House staff and federal officials are conducting the business of the government transparently and in accordance with record-keeping statutes. With that in mind, please produce a complete list of each White House official who has used a personal e-mail account to send or receive e-mail covered by the PRA or FRA. For each official, please include the personal e-mail address used and identify any messages not forwarded to a government address. Please produce this information as soon as possible, but no later than 5 p.m. on August 17, 2012. Additionally, please provide any memoranda or other guidance available to White House staff related to the use of private e-mail accounts. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

If you have any questions about this request, please contact Jon Skladany or Mike Whatley of the Committee Staff at 202-225-5074. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa", with a large, sweeping flourish extending from the end of the signature.

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member
Committee on Oversight and Government Reform